

REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments, and the following remarks. Claims 1-7 are in the application.

The Examiner rejected claims 1-3, 5 and 7 under 35 U.S.C. §103 as being unpatentable over *Shimizu et al.* in view of *Shirmohamadi*. Claim 4 is rejected over *Shimizu* in view of *Shirmohamadi* and further in view of *Garris*. Claim 6 is rejected over *Shimizu et al.* in view of *Shirmohamadi* and further in view of *Garvey et al.* Applicants respectfully traverse.

Shimizu discloses an electronic mixer having some of the features of claim 1, but does not disclose the features of the last paragraph of claim 1. Applicants disagree with the Examiner that *Shirmohamadi* discloses the features of the last paragraph of claim 1, especially "the use of a single rotatably supported setting body 110 for mixing the hot and the cold water corresponding with its rotational position." so that "It would have been obvious to have modified the system of *Shimizu* such that it used a single rotatably supported setting body in order to control the mixing of the hot and the cold water rather than the sliding valve 15."

The Examiner's statement is incorrect for the following reasons: Apart from the fact that in *Shirmohamadi* the capsule

140, including the computer unit 30 and the electrical motor 80, is clearly mounted above plaster (compare the position of the wall 200 in fig 5 B), the previously discussed features of the last paragraph of claim 1 are not disclosed in or obvious from *Shirmohamadi*.

The Examiner states that *Shirmohamadi* discloses the use of a "single rotatably supported setting body 110 for mixing the hot and cold water corresponding with its rotational position". But *Shirmohamadi* is silent with respect to the constructional design and the working method of the "mixer valve 110". The text of *Shirmohamadi* in col. 3, lines 44 - 49, col. 5, lines 2 - 6 and col. 5, lines 39 to 47, disclose that the motor 80 is connected with the shaft 100 of the mixing valve 110 over a "torque-transfer mechanism 90, such as gears". Thus, if the shaft 100 is turned, the mixing valve 110 is moved or opened/closed such that the flow of hot water or cold water will be changed.

The features of the last paragraph of claim 1, "that the setting element acts on one single rotatably supported setting body, so that a mixture of hot and cold water corresponding with its rotational position and admittable through a hot water inlet and a cold water inlet can be produced" is not disclosed in *Shirmohamadi*, nor in *Shimizu*. Consequently, combining these two references would not lead to the invention of claim 1.

A setting body (in the mixing valve 110) which is neither shown nor described in *Shirmohamadi* could be designed as disclosed in *Shimizu*, i.e. as an axially slidable setting body (see ref. # 15 in Fig. 7 of *Shimizu*). This sliding body could be axially moved by way of the motor 80 and over the gear 90 and over a "rotary-to-reciprocation converter" (see ref. # 32 in fig. 7 of *Shimizu* which is also not shown or described in *Shirmohamadi*).

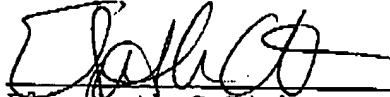
Hence even if it was obvious, knowing the construction of *Shimizu*, to use in a device as disclosed in *Shirmohamadi*, i.e., a sliding setting body which is movable in an axial direction, it would not be obvious to use a single rotatably supported setting body according to claim 1. Consequently, Applicants submit that claim 1 is patentable over the cited references.

In *Homan*, US Patent No. 4,923,116, in Fig. 3, there is also disclosed a sliding setting body (piston 210) which can be moved in an axial direction, and thus a construction similar to the mixer valve in *Shimizu*. In *Garris* and in *Shakalis* (in figs. 1 the corresponding descriptions) there is also only a disclosure of some basic elements but not the features disclosed in the last paragraph of claim 1 of the present invention.

Accordingly, Applicants submit that claims 1-7 are patentable over the cited references, taken either singly or in

combination. Early allowance of the amended claims is respectfully requested.

Respectfully submitted,
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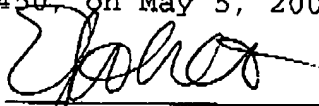
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Enclosure: Copy of a petition for a two-month extension of time

CERTIFICATE OF FACSIMILE TRANSMISSION

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I hereby certify that this correspondence is being sent by facsimile-transmission to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 5, 2005.



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